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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/522,162	03/09/2000	Mark Verdi	MSP-001	2423

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EXAMINER

HECK, MICHAEL C

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/522,162

Applicant(s)

VERDI ET AL.

Examiner

Michael Heck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 6 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This Final Office Action is responsive to applicant's amendment filed 26 June 2003. Applicant's amendment of 26 June 2003 amended claims 2, 6, and 7, and added claim 12. Currently, claims 1-12 are pending.

Response to Amendment

2. The objection to the drawings in the First Office Action is withdrawn in response to applicant's amendment to the specification.
3. The objection to the specification in the First Office Action is withdrawn in response to applicant's amendment to the specification.
4. The 35 USC 112 second paragraph rejection in the First Office Action is withdrawn in response to applicant's amendment to the specification.

Response to Arguments

5. Applicant's arguments filed 26 June 2003 have been fully considered but they are not persuasive. As to claims 1, 2, 4, 5, and 11, applicant asserts that Thomas (U.S. Patent Appl. 2002/0002482) does not anticipate the claim language since the present claims explicitly recite the steps of establishing a predetermined group before a message is received from a first member and that the first member is a member of that group. The applicant recognizes that Thomas teaches a method and apparatus for performing surveys electronically over a network where a survey is prepared by a requestor and then a group of survey respondents is selected from a pool of pre-registered participants. Specifically, the applicant asserts that Thomas does not teach the

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establishing of a predetermined group as claimed, does not teach the sending of a query based on a message from a first group member to the group, and does not teach sending the analysis to the group.

As to the applicant's first assertion, Claim 1 recites establishing a predetermined group comprising more than two members, receiving at a central location over a wide-area computer network, within a predetermined first time period, a first message from a first member of the group; defining a first query based on the first message; and sending the first query from the central location to at least a portion of the predetermined group. Thomas teaches that potential survey participants register electronically via a computer if they desire to participate in surveys. Once a participant has registered, a file is maintained on the participant in the database where the file includes information concerning the participant that is useful for selecting participants for surveys (Para 29). Clearly, a predetermined group is established prior to receiving a request for a survey since the predetermined group is reviewed to determine the appropriate survey population or portion of the predetermined group as indicated in claim 1. Thomas does not explicitly or implicitly state the requestor of the survey is not a member of the predetermined group. Specifically, the survey requestor is the person or organization requesting a survey (Para 34). The applicant asserts that Thomas teaches away from the survey requestor being a member of the responding group and refers to Paragraph 56. Specifically, in Paragraph 56, Thomas states the requestor identifies desired participant groups or categories that typically correspond to groups or categories maintained in the participant database. Examples of participants groups or categories include age, gender, address, race, political affiliation, salary range, job, and many more. Again, Thomas does not explicitly or implicitly state the requestor of the survey is not a member of the

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predetermined group. Therefore, the population of the predetermined group includes the survey requestor.

As to the assertion that Thomas does not teach the sending of a query based on a message from a first group member to the group, Thomas teaches a method for operating a survey business that includes receiving a survey request from a survey requestor, producing a survey in an electronic format based on the survey request, selecting a group of participants, and electronically distributing the survey (Para 13). As indicated above the population of the predetermined group includes the survey requestor, therefore, the survey requestor is a first group member and the survey is in response to a request.

As to the assertion that Thomas does not teach sending the analysis to the group, Thomas teaches a survey requester is the person or organization requesting a survey (Para 34). As indicated above the population of the predetermined group includes the survey requestor, therefore, sending the analysis to the survey requester includes sending the analysis to the predetermined group.

As to claim 3, 7, and 8-10, applicant asserts the argument concerning Thomas applies to these claims. As indicated above Thomas does teach the establishing of a predetermined group as claimed, therefore, the argument is moot.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4, 5, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Thomas (U.S. Pat Appl. 2002/0002482). Thomas discloses a method and apparatus for performing surveys electronically over a network comprising:

- [Claim 1] establishing a predetermined group comprising more than two members (Page 2, Para 30, Thomas teaches that based on participant categories, participants are selected for the survey);
- receiving at a central location over a wide-area computer network, within a predetermined first time period, a first message from a first member of the group (Page 1, Para 14, and Page 2, Para 30 and 32, Thomas teaches a survey system coupled to a network where a survey requester places a request for a survey. The network can be a Wide Area Network.);
- defining a first query based on the first message (Page 2, Para 30, Thomas teaches a survey is generated when a survey requester places a request for a survey);
- sending the first query from the central location to at least a portion of the predetermined group (Page 2, Para 30, Thomas teaches the survey is electronically transmitted to the selected survey participants);
- receiving over the wide-area computer network at the central location, within a predetermined second time period, a message from a second member of the group comprising a response to the first query (Page 2, Para 30, Thomas teaches the survey participants complete the survey and have their response electronically returned).
- preparing an analysis at the central location related to the first query and the response to it (Page 2, Para 30, Thomas teaches survey results are determined from the response of the participants); and
- sending the analysis over the wide-area computer network from the central location to the predetermined group (Page 1, Para 12, and Page 3, Para 34, Thomas teaches that optionally, the results are electronically distributed to a survey requestor. The survey requester can be a person or organization and is an option as the predetermined group is an option. If the option was to send or not to send then the purpose of the survey would be a moot point since the requester potentially would not receive the results of

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the survey, therefore, distribution of the survey results to people other than the survey requester is an option to include the predetermined group.).

- [Claim 2] sending the analysis only to said first member and those members of the predetermined group that responded to the first query (Page 1, Para 12 and 34, Thomas teaches that optionally, the results are electronically distributed to a survey requestor. The survey requester can be a person or organization and is an option as the respondents from a predetermined group is an option. If the option was to send or not to send then the purpose of the survey would be a moot point since the requester potentially would not receive the results of the survey, therefore, distribution of the survey results to people other than the survey requester is an option to include those that responded that were part of the predetermined group.).
- [Claim 4] sending the first query to the predetermined group (Page 2, Para 30, Thomas teaches the survey is electronically transmitted to the selected survey participants.);
- [Claim 5] storing the first analysis in the central location such that it is accessible to members of the predetermined group (Page 1, Para 14, and Page 3, Para 37 and 38, and Page 4, Para 53, Thomas teaches a survey/response database for storing responses to the active survey. The database is coupled to the survey manager via a communication link where the survey manager interfaces with the network, selects a group of participants, and takes the survey results and forwards them to the survey requester. The survey archive database stores survey responses for possible future uses. A database including the survey results is e-mailed to the survey requester who then can produce a customized survey report or otherwise make use of the data.).
- [Claim 11] establishing a predetermined group comprising two or more members (Page 2, Para 30, Thomas teaches that based on participant categories, participants are selected for the survey);
- receiving at a central location over a wide-area computer network, within a predetermined first time period, a plurality of first messages from members of the predetermined group (Page 1, Para 14, and Page 2, Para 30 and 32, and Page 3, Para 34, Thomas teaches a survey system coupled to a network where a survey requester places a request for a survey. The survey requester can be a person or organization. The network can be a Wide Area Network.);
- generating at least one set of queries based on at least a portion of the first messages (Page 2, Para 30, Thomas teaches a survey is generated when a survey requester places a request for a survey);

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- sending the at least one set of queries from the central location to the predetermined group (Page 2, Para 30, Thomas teaches the survey is electronically transmitted to the selected survey participants);
- receiving at the central location over the wide-area computer network, within a predetermined second time period, a plurality of second messages responsive to at least a portion of the set of queries (Page 2, Para 30, Thomas teaches the survey participants complete the survey and have their response electronically returned);
- preparing at least one analysis based on a query in the set and any corresponding responses (Page 2, Para 30, Thomas teaches survey results are determined from the response of the participants); and
- sending the analysis from the central location to the predetermined group (Page 1, Para 12, and Page 3, Para 34, Thomas teaches that optionally, the results are electronically distributed to a survey requestor. The survey requestor can be a person or organization and is an option as the predetermined group is an option. If the option was to send or not to send then the purpose of the survey would be a moot point since the requester potentially would not receive the results of the survey, therefore, distribution of the survey results to people other than the survey requestor is an option to include the predetermined group.).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (U.S. Pat Appl. 2002/0002482) in view of Liff (Liff, A., Fostering Online Collaboration and Community, Association Management, Washington, Vol. 50, issue 9, Sep. 1998, Pages 33-38 [PROQUEST]).

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Thomas discloses a method and apparatus for performing surveys electronically over a network, but fails to teach that members are required to respond to queries.

5. Liff teaches that the community requires participants to interact or be asked not to renew their subscription (Page 38, col. 1, Para 3). Liff teaches that it is old and well known in the online collaboration art to require participants to interact. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Thomas with the teachings of Liff to require participants to interact.

6. The purpose of soliciting an input from a participant is to gain knowledge from the group as a whole. Thomas discloses a system that is more effective, less cumbersome, and faster than conventional processes making the participant more willing to participate (Page 1, Para 10). Liff discloses interactive communities where people have an ongoing relationship based on a topic and are linked electronically (Page 34, col. 2, Para 3 through to col. 4, Para 1). Knowledge management, which is shaping how businesses and organizations will create value in the future, is emerging as a way to manage the intellectual capital of an organization (Page 38, col. 3, Para 3-4). The "knowledge network" will accelerate the spread of best practices and best-known methodologies throughout the membership (Page 33, Para 1). To facilitate knowledge growth within an organization or group, incorporating Liff's requirement for participants to interact would accelerate the process to create new knowledge, therefore, impacting the companies' bottom line.

7. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (U.S. Pat Appl. 2002/0002482) in view of Harple et al. (U.S. Pat No. 6,195,091). Thomas

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discloses a method and apparatus for performing surveys electronically over a network, but fails to teach that the member's identity is kept anonymous.

8. Harple et al. teaches a chat tool as part of their collaborative computing system that includes areas for outgoing and incoming messages where the users can elect to have their postings identified or anonymous (Col. 5, line 60 through to Col. 6, line 5). Harple et al. teaches that it is old and well known in the online collaboration art to have the option to be anonymous. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Thomas with the teachings of Harple et al. to allow the participants to remain anonymous.

9. Thomas' survey system has participants registering electronically if they desire to participate primarily for the purposes of categorizing the participants when selecting participants for the survey (Page 2, Para 29). However, depending on the survey subject and method such as a chat tool of Harple et al. the user may want to elect to have their inputs remain anonymous. The purpose of soliciting an input from a participant is to gain knowledge from the group as a whole. Subject matters may be sensitive to the participant, where the participant desires not to be identified. For example, a person may want to explore an ethics question so they know how the group would react to the same situation without divulging who they are for fear of being connected with an ethics violation. An individual participant may have first hand knowledge of the ethical situation in the query and want to share their experience. The predetermined group may elect to maintain the participants anonymity to allow for free and unhindered exchanges of information that otherwise could be detrimental to the participants or the businesses the participants represent, and to communicate acceptable approaches to handle the ethics question.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (U.S. Pat Appl. 2002/0002482), as applied to claim 1.

Claim 3 recites submitting the first query to the first member for approval before sending the first query to the portion of the group. Thomas fails to teach receiving approval prior to sending a query to the group. The examiner takes official notice that it is old and well known in the surveying art to have the requester of the survey review the survey details before authorizing it to be distributed to a predefined group. For example, it is common to have a marketing research consulting company generate a survey then review the survey with their client to ensure the survey collects the information that meets the goal of the business requesting the information. In addition, some electronic survey companies have the survey requestor interactively involved in the process of creating the survey, which means the requester is reviewing the survey at the same time it is being generated. In this manner time and resources are reduced and the objectives would be quickly met. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include the approval process to ensure the query meets the objectives of the requestor of the information.

Allowable Subject Matter

11. Claims 6 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Heck whose telephone number is (703) 305-8215. The examiner can normally be reached Monday thru Friday between the hours of 8:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

**Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450**

Or faxed to:

(703) 872-9306 [Official communications; including After Final communications labeled "Box AF"]

(703) 746-9419 [Informal/Draft communication, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, Virginia, 7th floor receptionist.

mch
20 August 2003


**TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3623**